HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1159 of 2006

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Between:

The Managing Director,
A.P. Cooperative Housing Societies Federation Ltd.,
(Housefed), A.P., Hyderabad

……Appellant

And

M.Seshagiri Rao and five others

……Respondents

:: JUDGMENT ::

Counsel for the Appellant : Shri T.Srikanth Reddy

November 06, 2006

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 23-08-2006 passed by the learned Single Judge in WPMP No.18468 of 2005 in Writ Petition No.14552 of 2005.

A perusal of the record shows that in the writ petition filed by them, respondent Nos.1 to 6 have prayed for issue of a mandamus to the appellant herein to release the documents deposited by them by asserting that they have already discharged the loan of the society. They also filed an application for issue of an interim direction for release of their documents. After taking note of the rival pleadings, the learned Single Judge accepted the prayer made by respondent Nos.1 to 6 for interim relief and passed the following order:

> "Separate counters are filed by the respondent Nos.2 and 5.
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> In the counter filed on behalf of the respondent No.5, it is stated that though the petitioners cleared their loan amounts at society level, the loan outstanding amounts to be paid by the society to the A.P. House Federation on the members loan accounts were not cleared at House Federation level due to diversification of funds of the society. As such the documents of the petitioners could not be released by the A.P. House Federation, Hyderabad.
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> In the counter filed on behalf of the respondent No.5, it is stated that the petitioners have pledged their original documents as per the directions of the 2nd respondent, is false. The petitioners have entered into an agreement with the Tenali Viswanadha C.B.S. Ltd., Tenali, for assigning their title deeds in favour of the 2nd respondent and also

to abide by the terms and conditions stipulated in the Assignment Deed. Accordingly, the Tenali Viswanadha C.B.S. Ltd., Tenali executed Registered Assignment Deeds separately for each petitioner in favour of the 2nd respondent herein. But, nowhere it is asserted that the petitioners have not cleared the loan amounts.

In view of the above, there shall be interim direction to the respondent to release the documents to the petitioners forthwith. However, the petitioners shall not create any encumberance or third party interest on the basis of those documents, during the pendency of the writ petition".

Shri T.Srikanth Reddy, learned counsel for the appellant, argued that once the documents are released, nothing would survive in the writ petition filed by the respondents. He submitted that the learned Single Judge could not have passed an interim order which has the effect of virtually adjudicating the main petition.

We have considered the submissions of the learned counsel which, though appear attractive, do not merit acceptance and the order under challenge does not call for interference. The direction given by the learned Single Judge for release of the documents to the writ petitioners is hedged with the condition that the writ petitioners shall not create any encumbrance or third party interest on the basis of the documents. This condition amply safeguards the right and interest of the appellant. Therefore, we do not find any justification to interfere with the impugned order.

For the reasons stated above, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP No.2416 of 2006 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

06-11-2006
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